
The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees

JANUARY 1999



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Suggestions and comments
concerning the newsletter or its
contents should be addressed to
the Bureau at the above address
or via e-mail at:

nwalker.scc@state.va.us

Welcome to the world - Lindsey
Rachel Hancock and Victoria
Nicole Wirt!

Is a Mortgage Broker License Required?

At least once each day we receive an inquiry about the licensing exemptions and whether or not the “ten loan exemption” applies to mortgage brokers. Section 6.1-411 of the Virginia Code sets forth eleven types of exemptions. One type provides that lenders making ten or less mortgage loans in any period of twelve consecutive months are exempt from licensing requirements. This ten loan exemption applies to mortgage lenders only, **not** to mortgage brokers. A review of the definition of “mortgage loan” is also necessary to determine whether a license is required. Virginia Code §6.1-409 defines “mortgage loan” as a “loan made to an individual, the proceeds of which are to be used primarily for personal, family or household purposes, which loan is secured by a mortgage or deed of trust upon any interest in one- to four-family residential, owner-occupied property located in the Commonwealth...”

Many brokers who call the Bureau about this issue state they have received information from lenders and/or other brokers that an unlicensed mortgage broker does not need a mortgage broker license in Virginia if they don’t broker more than ten loans in a twelve consecutive month period. This is incorrect. A mortgage broker license is required before any loans are brokered on Virginia, one- to four-family, residential, owner-occupied property.

As stated in Administrative Ruling 1601, it is the Bureau’s position that the payee named in a mortgage loan note is presumed to be the mortgage lender in that transaction. Mortgage companies who are listed as the payee on the note in connection with more than ten mortgage loans in any period of twelve consecutive months must obtain a mortgage lender license under the Mortgage Lender and Broker Act.

Operating a mortgage brokering business without obtaining a license (unless one of the other exemptions in Virginia Code §6.1-411 applies) is a Class 6 felony, pursuant to Virginia Code §6.1-419. Each day such person operates a mortgage business without having obtained a license is a separate violation of law and is subject to a \$1,000 fine for each violation, pursuant to Virginia Code §6.1-428.

Additional Reference: The January 1999 issue of National Mortgage Broker includes an article titled, “What’s the Worst That Could Happen? Penalties for Acting as an Unlicensed Mortgage Broker”.

Payoff Requests:

We have received a number of complaints concerning the difficulty in receiving payoff requests from lenders. According to some complaints, some lenders are not responding to written payoff requests made by the property owner's designee (i.e.: attorney or mortgage lender or broker with whom they have filed a loan application) and are claiming that the payoff request must come from the property owner. Other complaints relate to fees being charged in excess of those permitted by §6.1-330.82 of the Virginia Code. Please note §6.1-330.82 of the Virginia Code requires the holder of the note secured by a deed of trust or mortgage on Virginia property to mail or deliver a written statement of the payoff amount **within 10 days** of the receipt of a written request from the property owner, **or his designee**. Such a request for payoff information may be made one time within a 12 month period **without charge**, and a fee **not to exceed \$15** may be charged for each additional request made within such period.



SCC's Website “www.state.va.us/scc”

...check it out!

Correction and Clarification:

In the October 1998 issue of The Compliance Connection we provided a list of the top ten violations found by the Examiners in mortgage and consumer finance exams. Number six on the Consumer Finance list was listed as “Comingling open and paid files”. It should have read “Comingling of other business records with consumer finance records”, which is prohibited by Virginia Administrative Code 10 VAC 5-60-40 (formerly Virginia Regulation 225-01-0604 B). Number six on the Mortgage list was “Failure to provide the ‘Virginia Disclosure’ to the borrower at the time of application”. We have received many inquiries as to what the “Virginia Disclosure” is. This disclosure is required by Virginia Code §6.1-2.9:5. The disclosure, which must be given at the time of application for all first mortgage applicants, must include 1) when, if ever, the interest, points, and fees quoted will be locked in, 2) a statement that all loan terms not legally locked in are subject to change until settlement, and 3) a good faith estimate of the processing time required for the loan. We apologize for any confusion.



The Compliance Connection is published quarterly and is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage, consumer finance, industrial loan and non – profit debt counseling agency licensees and other interested parties. We encourage you to read each newsletter and distribute the information to all staff members. Comments and suggestions are appreciated!



New Mortgage Licensee Orientation:

The next session of the Bureau's orientation program for new mortgage licensees is scheduled for February 22, 1999. Companies licensed during the period of October 1 - and December 31, 1998 should have received information regarding the orientation. The session begins at 9:30 a.m. and concludes around 4:00 p.m. Licensees who were unable to attend previous sessions should also register. Space is limited, but we will make every attempt to accommodate interested parties.

License Update:

The following is a list of companies who have surrendered their license, had their license revoked, application denied or been fined by the Commission **since September 30, 1998**. We hope this will be helpful in keeping track of companies with whom you do business. **These lists are accurate as of January 1, 1999**, so call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. **NOTE: Doing business with an unlicensed mortgage company is a violation of Administrative Rulings 1603 and 1605, which can result in regulatory action.**

MORTGAGE LICENSES SURRENDERED SINCE SEPTEMBER 30, 1998

MLB – 53 THE MONEY STORE/D.C., INC. D/B/A THE MONEY STORE – 10/6/98	ML – 181 UNICOR MORTGAGE, INC. – 12/9/98
ML -- 265 SOUTHERN PACIFIC FUNDING CORPORATION – 10/26/98	ML – 198 COASTAL FEDERAL MORTGAGE COMPANY – 12/14/98
MB – 1098 STERLING MILLER COMPANY, INC. – 11/9/98	MB – 606 PRIME MORTGAGE GROUP, INC. – 12/16/98
ML – 274 ASSOCIATES HOUSING FINANCE SERVICES, INC. – 11/13/98	MB – 258 BOWERS, NELMS & FONVILLE, INC. – 12/18/98
MLB – 507 H & R BLOCK MORTGAGE COMPANY, L.L.C. – 11/13/98	MLB – 160 EQUITY MORTGAGE OF MARYLAND, INC. – 12/21/98
ML – 225 MICAL MORTGAGE, INC. – 11/23/98	MB – 932 PREFERRED CREDIT INC. – 12/21/98
MLB – 142 RELIASTAR MORTGAGE CORPORATION – 11/30/98	MLB – 405 AMERICAN MORTGAGE LENDING CORPORATION – 12/29/98
MB – 1114 A. D. BILICH, INC. – 12/1/98	MLB – 485 IVY MORTGAGE CORP. – 12/31/98
MLB – 471 FIRST STREET MORTGAGE CORP. – 12/7/98	

1999**MORTGAGE APPLICATIONS DENIED SINCE SEPTEMBER 30, 1998**

MB – 1240 CPBS CORPORATION – DENIED 11/25/98

(continued on next page...)

MORTGAGE LICENSE REVOCATIONS SINCE SEPTEMBER 30, 1998

NONE

PENALTIES PAID BY MORTGAGE LICENSEES SINCE SEPTEMBER 30, 1998

MB – 908 THE LOAN COMPANY – 10/22/98 – PAID \$500 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MLB – 204 UNITED SOUTHERN MORTGAGE CORPORATION OF ROANOKE, INC. – 10/22/98—PAID \$500 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MLB – 233 WALL STREET MORTGAGE CORPORATION – 10/22/98 – PAID \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MB – 820 ATLANTIC COAST CAPITAL, INC. – 10/22/98 – PAID \$500 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MB – 842 INTEGRITY MORTGAGE AND FINANCE, INC. – 10/22/98 – PAID \$500 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MB – 655 JER-TAG ENTERPRISES, INC. T/A JER-TAG MORTGAGE – 10/22/98 – PAID \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MB – 479 JON JULIAN T/A MORTGAGE FUNDING OF VIRGINIA – 10/22/98 -- PAID \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

ML – 199 MORTGAGE LENDERS ASSOCIATION, INC. – 10/22/98 -- PAID \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

ML – 158 OLYMPIA MORTGAGE CORP. – 10/22/98 – PAID \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MB – 647 SALEM FINANCIAL, LC – 10/22/98 -- PAID \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MB – 628 LELAND FINANCIAL SERVICES, INC. – 10/22/98 -- PAID \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MLB – 382 1ST PROFESSIONAL MORTGAGE, INC. – 10/22/98 -- PAID \$750 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MB – 960 E. M. WILLIS MORTGAGE CORP. – 10/22/98 -- PAID \$750 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MLB – 160 EQUITY MORTGAGE OF MARYLAND, INC. – 10/22/98 -- PAID \$750 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

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MB – 408 PREMIER MORTGAGE CORPORATION – 11/19/98 – PAID \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 1, 1998

MLB – 507 H & R BLOCK MORTGAGE COMPANY, LLC – 11/13/98 – PAID \$500 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO THE RELOCATION OF AN OFFICE

MLB – 386 NMC MORTGAGE CORPORATION – 11/13/98 – PAID \$300 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO THE RELOCATION OF AN OFFICE

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PENALTIES PAID BY MORTGAGE LICENSEES (continued from page 4):

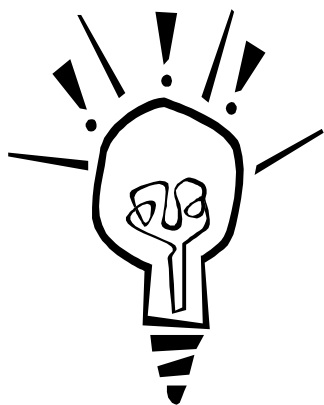
MLB – 412 FIDELITY FIRST MORTGAGE, L.L.C. – 11/13/98 – PAID \$300 FOR CONDUCTING BUSINESS FROM AN UNLICENSED LOCATION

ML – 105 MORTGAGE ACCESS CORP. – 11/13/98 – PAID \$500 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO THE RELOCATION OF AN OFFICE

OTHER PENALTIES PAID:

DENNIS R. BROWN, PRESIDENT OF CHESAPEAKE 1ST MORTGAGE CORPORATION – 11/13/98 – PAID \$1,000 FOR FAILURE TO OBTAIN COMMISSION APPROVAL PRIOR TO ACQUIRING THE STOCK OF CHESAPEAKE 1ST MORTGAGE CORPORATION (MB – 587)

AMRESKO INC. – 11/13/98 – PAID \$1,000 FOR FAILURE TO OBTAIN COMMISSION APPROVAL PRIOR TO ACQUIRING THE STOCK OF AMERIGROUP MORTGAGE CORPORATION (ML – 304)

**Annual Report Reminder:**

Consumer Finance Licensees: The “Annual Report of a Consumer Finance Company” was mailed in December 1998 and must be filed with the Bureau by April 1, 1999. If you have not received a copy of the Report, contact Rosa Lewis at (804) 371 - 9371 or visit the Bureau’s website where the form can be obtained. Any questions concerning completion of this Report should be addressed to Karen Sullivan at (804) 371 - 9372.

Mortgage Licensees: By now, all licensees operating under the Virginia Mortgage Lender and Broker Act should have received the “Annual Report of

Mortgage Lenders and Brokers” which was mailed last month. If you have not received it, please call Rosa Lewis at (804) 371 - 9371 or visit the Bureau’s website. It is very important licensees complete and return the Report in advance of the March 1, 1999 deadline. Failure to file the report by the deadline can result in a fine or revocation of your license (see previous article regarding fines levied for failure to file annual report by the deadline). If you have any questions when completing this form, contact Bob Mednikov at (804) 371 - 9692.

Here are some tips for completing the Mortgage Annual Report:

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- ✓ Report only brokered loans in Section II of the form. In Section III, report loans where the licensee acted as the lender. A licensee cannot act as the broker *and* the lender on the same loan!
- ✓ Report only data for Virginia, owner-occupied, residential mortgage loans. Do not include investment, commercial loans or mortgage loans secured by property not located in Virginia.
- ✓ Complete the affidavit on Page 8 and have the Report notarized.
- ✓ File the licensee's year – end 1998 financial statements (audited, if available) with your annual report. If the company's financial statements are not ready when you complete the Report, send in the Report with a letter explaining the financial statements will be sent as soon as they are available. Please do not delay sending in your completed annual report.

IMPORTANT COMMISSION TELEPHONE NUMBERS

Consumer Finance and Mortgage Examinations(804) 371-9701

Licensing.....(804) 371-9690

Consumer Complaints.....(804) 371-9705

Banks and Savings Institutions.....(804) 371-9704

Corporate Information – Clerk's Office.....(804) 371-9733

FAX Number for the Bureau of Financial Institutions.....(804) 371-9416

Bureau of Financial Institutions

State Corporation Commission

1999

P.O. Box 640

Richmond, Virginia 23218-0640

**IMPORTANT REGULATORY
INFORMATION ENCLOSED!!!**